

### **REMARKS/ARGUMENTS**

The Office Action mailed March 31, 2006, has been received and its contents carefully considered. Reconsideration and withdrawal of the outstanding rejections are respectfully requested in view of the foregoing amendments and the following remarks.

Claims 2-4 and 6-11 were rejected under section 112, first paragraph. In particular, the Office Action objected to the language that various parts are all “entirely formed of plastic”, which plastic contains a biocide additive. Without conceding the propriety of this rejection, the claims have been amended to recite the word essentially in place of entirely. It is respectfully submitted that this language clearly finds adequate support in the specification, and thus, withdrawal of the rejection is respectfully requested.

Notwithstanding this change to the language, it is respectfully submitted that the words essentially and entirely are synonymous in this application when read in its complete context. The first sentence of the specification makes it clear that the various components are made of plastic, which in the ordinary meaning, means entirely made of plastic. The reference to essentially made of plastic is used to mean that the inserts are entirely made of plastic except for the additives that are added. The third paragraph of page 2 and the fourth paragraph of page 3, for example, support this reading. In sum, the specification makes clear that the components are prepared from plastic material to which additives are added. No other components or materials are mentioned. Accordingly, the disclosed components in the present application consist of plastic and biocide additives and nothing else. It is believed that the amendments to claim 11 made herein are consistent with this reading of the specification.

These amendments further clarify that the various components are formed of material that contains only plastic and a biocide additive mixed into the plastic. This provides a significant advantage over the prior art, because the additive can be easily and conveniently mixed into the material prior to molding or other forming steps, and the resulting product will have biocide properties. Such plastic parts, according to the claimed invention, may be, for example, extruded

or cast and the resulting product does not need to be coated. Thus, by virtue of the invention, rather complicated shapes can easily and inexpensively be obtained from the mixed material. Further, these parts can be formed in one forming step. In this way, the invention avoids the additional steps of coating the parts as described in Johnston et al. and Kostyniak et al.

Claims 2-4, 6-8, 10 and 11 were rejected as being unpatentable over Johnston et al. combined with Kostyniak et al. Claim 9 was rejected as being unpatentable over Johnston et al. in view of Kostyniak et al., further in view of Yaeger et al. These rejections are respectively traversed.

Without conceding the propriety of the art rejections, claim 11 has been amended herein. In particular, claim 11 has been amended to clarify that the sidewalls, series of pipes, plurality of nozzles, and cooling inserts are each made of respective materials, which materials contain only plastic and a biocide additive mixed into the plastic.

To the contrary, Johnston et al. and Kostyniak et al. do not describe components essentially made of material that contains only plastic having a biocide therein. Rather, these two documents describe coated parts. The manufacture of coated parts is, in many cases, more complicated and expensive than the forming of parts entirely made of a plastic having biocide mixed therein. That is, the methods disclosed in these references require two steps (i) one for preparing the basic item, and (ii) one for preparing the coating. Coated bodies also have the disadvantage that the coating may be rubbed off, eroded, or otherwise damaged or removed during use of the cooling tower. However, the present invention provides an advantage that the plastic parts, having the biocide mixed throughout, even if they are worn, scratched or eroded, or break in some other fashion, will still present surfaces that have a biocide present.

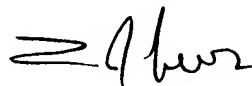
Further, it is respectfully submitted that the Office Action has not demonstrated that the coatings of Johnston et al. be suitably applied to the recited sidewalls, pipes, nozzles, and inserts as plastic formed parts in any event.

In sum, the invention recited in amended claim 11 differs significantly from the references used in the rejection, at least because amended claim 11 clearly specifies forming the items out of a relatively homogenous material that is essential or entirely made up of material that is plastic having a biocide additive mixed therein. The references used in the rejection relate to coatings that would be applied to the outside of items, and thus, are quite different in structure and operation.

Further, with respect to Johnston et al., Applicants respectfully traverse the assertion in the Office Action that Johnston et al. discloses forming fill materials. To the contrary, Johnston et al. appears to be forming film material. While this film material may indeed be mounted onto a fill pack substrate, the resulting structure would still be essentially a coating. For example, at column 30, lines 14-19, Johnston et al. notes that the fluid transport film can be presented to the liquid flow by being on a support structure or any self-supported assembly. This reference to the film being on a support structure clearly describes a coating and not an item such as the claimed sidewalls, pipes, nozzles, and inserts being essentially formed of a material which contains only plastic having a biocide as recited in claim 11.

In view of the foregoing, reconsideration and allowance of the application are believed in order, and such action is earnestly solicited. Should the Examiner believe that a telephone conference would be helpful in expediting prosecution of the application; the Examiner is invited to telephone the undersigned at 202-861-1696.

Respectfully submitted,  
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7590 10/10/2006

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EXAMINER

BUSHEY, CHARLES S

ART UNIT PAPER NUMBER

1724

DATE MAILED: 10/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Notice of Non-Compliant Amendment (37 CFR 1.121)

Application No.  
10/784,208

Applicant(s)  
KIENBOCK ET AL.

NOV 13 2006

Art Unit  
2800

-- The MAILING DATE of this communication appears on the cover sheet and the correspondence address --

The amendment document filed on September 28, 2006 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
  - ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other \_\_\_\_\_.
- ☐ 2. Abstract:
  - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other \_\_\_\_\_.
- ☐ 3. Amendments to the drawings:
  - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other \_\_\_\_\_.
- ☒ 4. Amendments to the claims:
  - ☐ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☒ E. Other: New claim 12 should not be underlined.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

## TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance, or a drawing submission (only). If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a Quayle action. If any of above boxes 1 to 4 are checked, the correction required is only the corrected section of the non-compliant amendment in compliance with 37 CFR 1.121.

**Extensions of time** are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action.

**Failure to timely respond** to this notice will result in:

**Abandonment** of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action; or

**Non-entry** of the amendment if the non-compliant amendment is a preliminary amendment or supplemental

Legal Instruments Examiner (LIE), if applicable Veronica Day-Everett/

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